



(4) (3)

Single Bench

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR  
CRIMINAL APPEAL NO. 293 / 2005

Appellant  
(Surety)

Nohru S/o Bagar Sai Gond,  
Aged about 55 years,  
R/o Katkona, P.S. Lakhanpur,  
Dist : Surguja-(C.G.)

Versus

Respondent

State of Chhattisgarh

CRIMINAL APPEAL U/S 449 OF THE CODE OF CRIMINAL PROCEDURE

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक G.A.293/ सन् 2005

## आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक<br>तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार<br>के अन्तिम आदेश |
|------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|
|                                    | <p><b><u>4-4-2005</u></b></p> <p>Mr. Rahul Mishra, counsel for the appellant.</p> <p>Mr. Sudhir Agrawal, Panel Lawyer for the State/respondent.</p> <p>Nohru, who stood surety to the accused namely, Peshuram in Sessions Trial No.354/2004, has preferred this appeal under Section 449 of the Code of Criminal Procedure, being aggrieved by the order dated 22-2-2005 passed by the 1<sup>st</sup> Additional Sessions Judge, Ambikapur, in M.J.C. No.13/2005, whereby the learned Additional Sessions Judge has forfeited the whole surety amount as in spite of the service of notice, the appellant failed to appear before the Additional Sessions Judge and also failed to show sufficient cause with regard to non-appearance of accused Peshuram or his non-appearance in spite of notice on his brother Ramchandra Singh.</p> <p>I have heard learned counsel for the parties and as agreed by learned counsel for the parties this appeal is being disposed of at the admission stage itself.</p> <p>Learned counsel for the appellant argued that as accused Peshuram himself appeared within a period of three months and he has already been released on bail, and on the date of hearing on account of sudden illness of the appellant he could not appear before the trial Court, particularly before forfeiting the surety amount the appellant was not personally served and he could not appear on 22-2-2005. He further argued that there was no connivance on the part of the appellant regarding the absconding of the accused person, on the date of hearing, therefore, in the circumstances, the whole amount should be remitted.</p> <p>On the other hand, learned Panel Lawyer opposed the appeal.</p> <p>Having heard learned counsel for the parties, I have perused the impugned order, whereby the whole surety amount of Rs.5,000/- has been</p> |                                                           |

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ...A.293/... सन् 2005

## आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक<br>तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश -2-                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार<br>के अन्तिम आदेश |
|------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|
| Soma                               | <p>forfeited as the appellant failed to appear on the date and show cause against the notice. It is admitted position that accused Peshuram, to whom the present appellant stood surety, failed to appear before the trial Court on one date i.e. 28-9-2004, therefore, the bail bonds were forfeited, but within a period of three months he appeared before the Court and he has also been released on bail. Therefore, in the facts and circumstances, as the main purpose of the surety was to secure presence of the accused person before the Court, and he had already appeared and released on bail, in the circumstances the order impugned is harsh. The learned trial Court ought not to have forfeited the whole surety amount, instead, looking to the facts, if an amount of Rs.500/- is forfeited and remaining amount is remitted that would meet the ends of justice.</p> <p>In the result, the appeal is partly allowed. The amount of Rs.500/- is forfeited out of the total surety amount and remaining amount of Rs.4,500/- is remitted. The appellant to deposit Rs.500/- within a period of one week failing which the trial Court shall be entitled to recover the amount, in accordance with law.</p> <p>In view of this order, M.(Cri.)P.No.778/2005 stands disposed of.</p> <p>Parties are entitled for certified copy of this order.</p> | <p>Sd/-<br/>L.C. Bhadoo<br/>Judge</p>                     |